

KILPATRICK TOWNSEND & STOCKTON LLP

*Counsel to Wells Fargo Bank, as Trustee for the
registered holders of Sovereign Commercial
Mortgage Securities Trust, 2007-C1, Commercial
Pass-Through Certificates, Series 2007-C1*
1114 Avenue of the Americas, 21st Floor
New York, NY 10036-7703
Keith Brandofino, Esq. [KB 2128]
Colin M. Bernardino (admitted *pro hac vice*)
Tel: (212) 775-8700
Fax: (212) 775-8800
kbrandofino@kilpatricktownsend.com
cbernardino@kilpatricktownsend.com

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

Chapter 11

Boysin Ralph Lorick and
Cynthia Theresa Lorick,

Case No. 16-45645-NHL

Debtors.

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**APPELLANT’S DESIGNATION OF RECORD
ON APPEAL AND STATEMENT OF ISSUES ON APPEAL**

Wells Fargo Bank, as Trustee for the registered holders of Sovereign Commercial Mortgage Securities Trust, 2007-C1, Commercial Pass-Through Certificates, Series 2007-C1 (“Appellant” or “Wells Fargo”), a secured creditor of the above-captioned debtors (the “Debtors”), by and through its counsel, Kilpatrick Townsend & Stockton LLP, files this Designation of Record on Appeal of the Memorandum Decision and Order, entered August 9, 2018 [Dkt. No. 303], as follows:

I. Designation of Items for Record on Appeal

1. Debtors’ voluntary Chapter 11 petition [Dkt. No. 1]. Filed on 12/15/16.
2. Motion for Colin M. Bernardino to Appear Pro Hac Vice for Wells Fargo [Dkt. No. 16]. Filed on 12/21/16.

3. Notice of Appearance and Request for Notice filed by Colin M. Bernardino on behalf of Wells Fargo [Dkt. No. 17]. Filed on 12/21/16.
4. Emergency Motion for Receiver to Remain in Possession filed by Wells Fargo [Dkt. No. 20]. Filed on 12/23/16.
5. Debtors' Schedules and Statements [Dkt. No. 26]. Filed on 12/29/16.
6. Interim Order Granting Emergency Motion for Receiver to Remain in Possession [Dkt. No. 35]. Entered on 1/20/17.
7. Debtors' Amended Schedules [Dkt. No. 41]. Filed on 2/3/17.
8. Second Supplemental Affidavit of Douglas Rosenberg in Support of Emergency Motion for Receiver to Remain in Possession [Dkt. No. 43]. Filed on 2/21/17.
9. Motion to Dismiss filed by Wells Fargo [Dkt. No. 51]. Filed on 3/23/17.
10. Debtors' Objection to Motion to Dismiss [Dkt. No. 59]. Filed on 4/17/17.
11. Proof of Claim No. 8, together with Addendum thereto, filed by Wells Fargo Bank on April 24, 2017, asserting a secured claim against Debtor Boysin Lorick. [Case No. 16-45645, Claims Register No. 8].
12. Proof of Claim No. 9, together with Addendum thereto, filed by Wells Fargo Bank on April 24, 2017, asserting a secured claim against Debtor Cynthia Theresa Lorick. [Case No. 16- 45645, Claims Register No. 9].
13. Debtors' Motion for an Order Pursuant to Sections 105(a) and 363 of the Bankruptcy Code (i) Approving Bidding Procedures and Certain Terms and Conditions of Sale, (ii) Scheduling the Deadline for an Auction and Hearing Date, and (iii) Authorizing Sale of Real Property "As Is" and "Where Is", Free and Clear of All Liens, Claims, Encumbrances, and Interests, with exhibits [Dkt. No. 67]. Filed on 6/9/17.
14. Wells Fargo's Response to Debtors' Motion for an Order Pursuant to Sections 105(a) and 363 of the Bankruptcy Code (i) Approving Bidding Procedures and Certain Terms and Conditions of Sale, (ii) Scheduling the Deadline for an Auction and Hearing Date, and (iii) Authorizing Sale of Real Property "As Is" and "Where Is", Free and Clear of All Liens, Claims, Encumbrances, and Interests [Dkt. No. 73]. Filed on 6/26/17.
15. Final Order Granting Emergency Motion for Receiver to Remain in Possession [Dkt. No. 76]. Entered on 7/16/17.
16. Order (I) Approving Bidding Procedures and Certain Terms and Conditions of Sale, (II) Scheduling the Deadline for an Auction and Hearing Date, and (III) Authorizing Sale of Real

Property “as is” and “where is”, Free and Clear of all Liens, Claims, Encumbrances and Interests, with exhibits [Dkt. No. 77]. Entered on 7/25/17.

17. Debtors’ Emergency Motion for the Entry of an Order (1) Adjourning the Auction Sale of the Debtors’ Real Property, located at 3126 Coney Island Avenue, Brooklyn, New York, Scheduled for August 22, 2017, at 11:00 a.m. on an Ex Parte Basis or (2) Fixing Method of Service and Shortening Notice Period for a Hearing on the Motion Before the Auction Sale, and (3) for Related Relief, with exhibits [Dkt. No. 80]. Filed on 8/21/17.

18. Affirmation of Norma E. Ortiz Pursuant to Local Rule 9077-1 [Dkt. No. 81]. Filed on 8/21/17.

19. Order Denying Debtors’ Emergency Motion for an Order (1) Adjourning the Auction Sale of Property Known as 3126 Coney Island Avenue, Brooklyn, New York, Scheduled for August 22, 2017, *Ex Parte* or (2) Fixing Method of Service and Shortening Notice Period for a Hearing on the Motion to Adjourn Auction Sale, and (3) For Related Relief [Dkt. No. 82]. Entered on 8/21/17.

20. Report of Auction Sale Held on August 22, 2017 for the Property Known as 3126 Coney Island Avenue, Brooklyn, New York [Dkt. No. 83]. Filed on 8/22/17.

21. Limited Objection to Sale of Debtors’ Real Property and Reservation of Rights Regarding the Same filed by Wells Fargo [Dkt. No. 85]. Filed on 8/24/17.

22. Debtors’ Letter Responding to Request Not to Enter Order Approving Sale [Dkt. No. 86]. Filed on 9/7/17.

23. Transcript of hearing held on May 9, 2017 [Dkt. No. 88]. Filed on 9/7/17.

24. Transcript of hearing held on June 27, 2017 [Dkt. No. 89]. Filed on 9/7/17.

25. Objection of Soleyman Ghalchi, Successful Bidder at Auction Sale, to Entry of Order Confirming Sale, with exhibits [Dkt. No. 90]. Filed on 9/8/17.

26. Order Approving the Sale of Real Property “As Is” and “Where Is”, Free and Clear of All Liens Claims, Encumbrances and Interests and Granting Related Relief [Dkt. No. 95]. Entered on 9/8/17.

27. Motion of Soleyman Ghalchi, Successful Bidder at Auction Sale, For Entry of an Order to Show Cause Pursuant to Bankruptcy Rule 9024 and Federal Rule of Civil Procedure 60(b) to Set Aside the Order Approving the Sale of Real Property dated September 8, 2017, with exhibits [Dkt. No. 96]. Filed on 9/11/17.

28. Transcript of hearing held on August 24, 2017 [Dkt. No. 97]. Filed on 9/12/17.

29. Transcript of hearing held on September 14, 2017 [Dkt. No. 100]. Filed on 9/20/17.

30. Response in Opposition filed by Wells Fargo, with exhibits [Dkt. No. 111]. Filed on 9/27/17.
31. Transcript of hearing held on October 2, 2017 [Dkt. No. 122]. Filed on 10/4/17.
32. Transcript of hearing held on October 6, 2017 [Dkt. No. 130]. Filed on 10/11/17.
33. Order Denying Motion of Soleyman Ghalchi for Relief from Order Confirming Sale of Real Property Dated September 8, 2017 and Entered September 11, 2017 [Dkt. No. 133]. Entered on 10/12/17.
34. Transcript of hearing held on October 26, 2017 [Dkt. No. 144]. Filed on 10/30/17.
35. Application to Employ Dahiya Law Offices, LLC as Counsel for the Debtors [Dkt. No. 150]. Filed on 11/11/17.
36. Debtors' Letter Requesting the Judge to Dismiss the Case or Suspend the Proceedings [Dkt. No. 151]. Filed on 11/1/17.
37. Order regarding turnover of any and all leases in Boysin Ralph Lorick's possession and control [Dkt. No. 155]. Entered on 11/3/17.
38. Motion to Withdraw as Attorney filed by Norma E. Ortiz [Dkt. No. 156]. Filed on 11/3/17.
39. Objection to Application of Ortiz & Ortiz, L.L.P., Pursuant to Local Rule 2090-1(d), to Withdraw as Debtors' Counsel filed by Wells Fargo [Dkt. No. 161]. Filed on 11/7/17.
40. Affirmation of Richard J. McCord in Support of Order to Show Cause for Entry of Order (I) Declaring Debtors in Default of the Order Confirming Sale, Memorandum of Sale Between the Debtors, as Seller, and Soleyman Ghalchi, as Successful Purchaser, of Real Property Located at 3126 Coney Island Avenue, Brooklyn, New York, and Terms and Conditions of Sale; and (II) Ordering Ortiz & Ortiz L.L.P. to Return Ghalchi's Deposit; or Alternatively (III) Further Extending Time to Close from November 10, 2017 to November 17, 2017; and (IV) Staying Ghalchi's Obligation to Pay Interest and Real Estate Taxes, *Nunc Pro Tunc* to October 10, 2017 and for Related Relief, with exhibits [Dkt. No. 162]. Filed on 11/8/17.
41. Order to Show Cause [Dkt. No. 164]. Entered on 11/8/17.
42. Wells Fargo's Motion for Appointment of Chapter 11 Trustee, or, Alternatively, Conversion to Chapter 7 [Dkt. No. 169]. Filed on 11/13/17.
43. Order to Show Cause as to why Debtors should not be held in contempt and sanctioned for failure to comply with orders of this Court [Dkt. No. 173]. Entered on 11/14/17.

44. Debtor's Objection to Order to Show Cause [Dkt. No. 176]. Filed on 11/15/17.
45. Declaration of Cynthia Lorick in Response to Order to Show Cause [Dkt. No. 177]. Filed on 11/16/17.
46. Contempt Order [Dkt. No. 180]. Filed on 11/19/17.
47. Order Conditionally Appointing a Chapter 11 Trustee [Dkt. No. 181]. Entered on 11/19/17.
48. Wells Fargo's Objection to Application to Employ the Dahiya Law Offices, LLC as Counsel to the Debtors [Dkt. No. 179]. Filed on 11/20/17.
49. Letter to Correct Claims Made Against Debtor filed by Boysin Ralph Lorick [Dkt. No. 183]. Filed on 11/20/17.
50. Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. filed by Wells Fargo [Dkt. No. 191]. Filed on 12/2/17.
51. Amended Schedules [Dkt. No. 195]. Filed on 12/7/17.
52. Affidavit in Opposition to (i) Wells Fargo's Objection to Application to Employ the Dahiya Law Offices, LLC as Counsel to the Debtors and (ii) Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. [Dkt. No. 196]. Filed on 12/11/17.
53. Affidavit in Opposition to Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. filed by Mohammad Choudhary [Dkt. No. 197]. Filed on 12/11/17.
54. Declaration Regarding Debtors' Real Estate Closing Held on November 21, 2017 [Dkt. No. 198]. Filed on 12/12/17.
55. Reply to "Barnardino Objections" filed by the Debtors [Dkt. No. 200]. Filed on 12/12/17.
56. Affidavit Regarding Amending the Proposed Order with Supplemental Affirmation filed by Debtors, with exhibits [Dkt. No. 201]. Filed on 12/12/17.
57. Exhibit filed by Mohammad Choudhary [Dkt. No. 202]. Filed on 12/14/17.
58. Response filed by Norma E. Ortiz to Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. [Dkt. No. 203]. Filed on 12/18/17.
59. Limited Affirmation in Opposition to Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. filed by Debtors [Dkt. No. 204]. Filed on 12/18/17.

60. Order Authorizing Debtors to Retain Dahiya Law Offices, LLC [Dkt. No. 205]. Entered on 12/20/17.

61. Letter Summarizing Pending Issues in Debtors' Case filed by Norma E. Ortiz [Dkt. No. 206]. Filed on 12/21/17.

62. Reply in Support of Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A., with exhibits [Dkt. No. 207]. Filed on 12/21/17.

63. Order Granting Motion in Part [Dkt. No. 209]. Entered on 12/29/17.

64. Transcript of hearing held on December 21, 2017 [Dkt. No. 210]. Filed on 1/3/18.

65. Letter Seeking Extension for Motion under 506 [Dkt. No. 212]. Filed on 1/15/18.

66. Application for Compensation for Marilyn Macron, P.C. as Special Counsel to Debtors [Dkt. No. 213]. Filed on 1/15/18.

67. Application for Compensation for David J. Doyaga, Sr. as Attorney for Douglas Rosenberg, the Receiver [Dkt. No. 213]. Filed on 1/15/18.

68. Application for Compensation for Douglas Rosenberg as Receiver [Dkt. No. 215]. Filed on 1/19/18.

69. Wells Fargo's Objection to Debtors' Request for extension to File Section 506(c) of the Bankruptcy Code Motion [Dkt. No. 216]. Filed on 1/22/18.

70. Letter Supporting Debtors' Request for an Extension of Time to File Section 506(c) Application [Dkt. No. 218]. Filed on 1/22/18.

71. Letter Supplementing and Amending Fee Application of Marilyn Macron, P.C. [Dkt. No. 221]. Filed on 2/2/18.

72. Letter Regarding Debtors' Request for Time Records filed by Norma E. Ortiz [Dkt. No. 222]. Filed on 2/6/18.

73. Debtors' Affirmation in Opposition to Application for Compensation for Douglas Rosenberg as Receiver [Dkt. No. 224]. Filed on 2/6/18.

74. Debtors' Affirmation in Opposition to Application for Compensation for Marilyn Macron, P.C. [Dkt. No. 225]. Filed on 2/6/18.

75. Debtors' Limited Affirmation in Opposition to Application for Compensation for David J. Doyaga, Sr. as Attorney for Douglas Rosenberg, the Receiver [Dkt. No. 226]. Filed on 2/6/18.

76. Wells Fargo's Supplemental Statement in Support of Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. [Dkt. No. 227]. Filed on 2/8/18.

77. Order Regarding Debtors' Time to File Section 506(c) Motion [Dkt. No. 229]. Entered on 2/9/18.

78. Order Granting First and Final Applications of (I) David J. Doyaga, Sr. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred as Counsel to Douglas Rosenberg, the Receiver; and (II) Douglas Rosenberg, the Receiver, for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses Incurred as Receiver [Dkt. No. 230]. Entered on 2/16/18.

79. Debtors' Motion to Surcharge the Sale Proceeds, with exhibits [Dkt. No. 231]. Filed on 3/2/18.

80. Debtors' "Schedule of Cost, expenses, fees etc chargeable to Fargo's Claim in the Proceeds" [Dkt. No. 232]. Filed on 3/11/18.

81. Wells Fargo's Opposition to Debtors' Surcharge Motion [Dkt. No. 233]. Filed on 3/12/18.

82. Debtor's Reply in support of Debtors' Surcharge Motion [Dkt. No. 235]. Filed on 3/16/18.

83. Declaration of Norma E. Ortiz in Response to Debtors' Motion and Reply Under Bankruptcy Code Section 506(c) [Dkt. No. 238]. Filed on 3/21/18.

84. Letter of Clarification Regarding the Fee Application of Marilyn Macron filed by Norma E. Ortiz [Dkt. No. 239]. Filed on 3/22/18.

85. Order for Compensation Granting for Marilyn Macron P.C., in the reduced amount, fees awarded: \$26,985.00, expenses awarded: \$6,962.61; that Ortiz & Ortiz LLP, as escrow agent, is authorized to disburse \$26,985.00 to Marilyn Macron P.C. as a final award of compensation; Ortiz & Ortiz LLP, as escrow agent, is authorized to disburse \$305.00 to Marilyn Macron P.C. as a final award of expenses; Ortiz & Ortiz LLP, as escrow agent, is authorized to disburse \$6,657.61 to Veritext Legal Solutions to satisfy the expenses incurred by Marilyn Macron P.C. for transcript costs incurred on behalf of the Debtors [Dkt. No. 242]. Entered on 4/2/18.

86. Wells Fargo's Second Supplemental Statement in Support of Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. [Dkt. No. 244]. Filed on 4/9/18.

87. Application for Compensation. for Ortiz & Ortiz, LLP as Attorney; Fees: \$ 172,248.94 Expenses: \$ 2,135.09 [Dkt. No. 247]. Filed on 4/30/18.

88. Debtors' Letter Requesting Extension of Time to Respond to Applications [Dkt. No. 248]. Filed on 5/7/18.

89. Motion to Convert Case from Chapter 11 to Chapter 7 filed by the United States Trustee [Dkt. No. 249]. Filed on 5/8/18.

90. Wells Fargo's Objection to Request by Debtors' Counsel for an Extension of Time [Dkt. No. 250]. Filed on 5/9/18.

91. Debtors' Response to Application for Compensation filed by Ortiz & Ortiz, LLP, with exhibit [Dkt. No. 252]. Filed on 5/18/18.

92. Debtors' Preliminary Statement in response to Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. with exhibit [Dkt. No. 253]. Filed on 5/18/18.

93. Debtors' Amended Affirmation in Support [Dkt. No. 254]. Filed on 5/18/18.

94. Debtors' Exhibits "Regarding Opp to Fargo Application" [Dkt. No. 256]. Filed on 5/21/18.

95. Wells Fargo's Response to Debtors' additional and Further Affirmation in Support of Surcharge [Dkt. No. 258]. Filed on 5/22/18.

96. Letter Informing Debtor Boysin Lorick and Debtor's Counsel of Intent to File Motion for Sanctions Under Bankruptcy Rule 9011 Filed by Norma E Ortiz [Dkt. No. 259]. Filed on 5/23/18.

97. Wells Fargo's Response in Further Support of Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. [Dkt. No. 260]. Filed on 5/23/18.

98. Debtors' Letter for Adjournment of Hearing [Dkt. No. 262]. Filed on 5/31/18.

99. Debtors' Letter Regarding True Debt [Dkt. No. 263]. Filed on 6/1/18.

100. Transcript of hearing held on May 24, 2018 [Dkt. No. 264]. Filed on 6/1/18.

101. Transcript of hearing held on May 24, 2018 [Dkt. No. 265]. Filed on 6/4/18.

102. Debtors' Letter Withdrawing Docket No. 252 [Dkt. No. 269]. Filed on 6/8/18.

103. Debtors' Letter to the Court Clerk Requesting Expunging of Filing No. 252 [Dkt. No. 270]. Filed on 6/8/18.

104. Interim Order Partially Approving the Application of Ortiz & Ortiz, L.L.P. for Allowance of Compensation and Reimbursement of Expenses Incurred [Dkt. No. 227]. Entered on 6/11/18.

105. Debtors' Affirmation in Opposition to United States Trustee's Motion to Convert Case [Dkt. No. 274]. Filed on 6/21/18.

106. Wells Fargo's Payoff Letter [Dkt. No. 276]. Filed on 6/25/18.

107. Debtors' Opposition to Application for Compensation of Ortiz & Ortiz, L.L.P. [Dkt. No. 277]. Filed on 6/25/18.

108. Debtors' Exhibit to Opposition [Dkt. No. 278]. Filed on 6/25/18.

109. Letter Informing Debtor Boysin Lorick and Debtor's Counsel of Intent to File Motion for Sanctions Under Bankruptcy Rule 9011, 28 U.S.C. 1927, and Bankruptcy Code 105 Filed by Norma E Ortiz on behalf of Ortiz & Ortiz, LLP, with exhibits [Dkt. No. 279]. Filed on 6/26/18.

110. Debtors' Ex Parte Motion for 2004 Examination, with exhibits [Dkt. No. 280]. Filed on 6/27/18.

111. Debtors' Letter Requesting Reduction of Disbursement to Wells Fargo [Dkt. No. 282]. Filed on 6/27/18.

112. Wells Fargo's Supplemental Statement in Support of Secured Lender's Claim Attributable to Fees and Expenses of Aiken Gump Strauss Hauer & Feld LLP [Dkt. No. 285]. Filed on 6/27/18.

113. Wells Fargo's Supplemental Statement in Support of Application for Order Directing Distribution of Sale Proceeds to Wells Fargo Bank, N.A. [Dkt. No. 285]. Filed on 6/28/18.

114. Order Granting First and Final Fee Application of Ortiz & Ortiz, LLP for Allowance and Payment of Compensation for Professional Services and Reimbursement of actual and necessary Expenses Incurred [Dkt. No. 287]. Entered on 7/6/18.

115. Order Setting Return Date for Debtors' Plan and Disclosure Statement or Motion to Dismiss [Dkt. No. 288]. Entered on 7/8/18.

116. Wells Fargo Payoff Letter [Dkt. No. 290]. Filed on 7/13/18.

117. Transcript of hearing held on 2/8/18 [Dkt. No. 296]. Filed on 8/2/18.

118. Transcript of hearing held on June 28, 2018 [Dkt. No. 297]. Filed on 8/2/18.

119. Transcript of hearing held on March 22, 2018 [Dkt. No. 298]. Filed on 8/3/18.
120. Transcript of hearing held on February 2, 2018 [Dkt. No. 301]. Filed on 8/6/18.
121. Transcript of hearing held on March 22, 2018 [Dkt. No. 302]. Filed on 8/8/18.
122. Memorandum Decision and Order dated August 9, 2018 [Dkt. No. 303]. Entered on 8/9/18.
123. Proof of Claim No. 12, filed by Partner Engineering and Science, Inc. on November 22, 2017. [Case No. 16-45645, Claims Register No. 12].

II. Statement of Issues on Appeal

Appellant's Statement of the Issues on Appeal are as follows:

1. Whether the Court erred when it denied a portion of Appellant's claim based upon Appellant's attorneys' fees?
2. Whether the Court erred when it denied a portion of Appellant's claim based upon Appellant's attorneys' fees incurred and to be incurred in connection with the civil action styled as *Choudhary v. Barnardino, et al.* (17-cv-07195-WF-LB) (E.D.N.Y.)?
3. Whether the Court erred when it granted, in part, Debtors' motion to surcharge Appellant?
4. Whether the Court erred by extinguishing Appellant's indemnification claims against the Debtors?

Dated: September 6, 2018

KILPATRICK TOWNSEND AND STOCKTON LLP

/s/ Keith Brandofino

Keith Brandofino, Esq. (KB 2128)

KILPATRICK TOWNSEND & STOCKTON LLP

1114 Avenue of the Americas, 21st Floor

New York, New York 10036-7703

Telephone: (212) 775-8700

Facsimile: (212) 954-5555

Email: kbrandofino@kilpatricktownsend.com

and

Colin M. Bernardino, Esq. (Ga. Bar No. 054879)
(Admitted *pro hac vice*)
KILPATRICK TOWNSEND & STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
Telephone: (404) 815-6500
Facsimile: (404) 815-6555
Email: cbernardino@kilpatricktownsend.com

*Counsel for Wells Fargo Bank, as Trustee for the registered
holders of Sovereign Commercial Mortgage Securities
Trust, 2007-C1, Commercial Pass-Through Certificates,
Series 2007-C1*